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October 21, 2008

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Intercarrier Compensation for ISP-Bound Traffic, WC Docket No. 99-68; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135

Dear Ms. Dortch:

Great Plains Communications, Inc. and Consolidated Companies, Inc.[1] (the "Companies") hereby submit this *ex parte* filing to the Federal Communications Commission (the "Commission") in response to the October 13, 2008, AT&T letter generally asserting that the traffic sensitive costs associated with end office switching are in the range between $0.0001 and $0.00024 per minute.[2] In support of this position, AT&T makes reference to testimony of its witness, Dr. Kent Currie, in Michigan Public Service Commission ("MPSC") case U-14781. According to Dr. Currie's analysis of CopperCom switch cost data submitted by a group of RLECs, "the largest portion of the total cost of this CopperCom switch actually was completely fixed."[3] In his testimony in the Michigan case, Dr. Currie further asserted that

[1]The incumbent LEC affiliates of Consolidated Companies, Inc. are: Consolidated Telco, Inc., Consolidated Telecom, Inc., Consolidated Telephone Company and Curtis Telephone Company.

[2] *See* AT&T letter from Henry Hulquist of AT&T to Marlene Dortch, Secretary, Federal Communications Commission, electronically submitted on October 13, 2008, at pg 4.

[3] *Id.*, at pg 3. It should be noted that CopperCom is no longer in the switch manufacturing market.

traffic-sensitive switching costs must necessarily be less than 20% of the total switching investment (which is used in the calculation of the aforementioned rate range).[4]

The computation described by AT&T and the analysis by Dr. Currie is not consistent with the TELRIC cost standard adopted by the Commission.[5] It is also important to note that the MPSC Staff did not agree with the AT&T calculation in the instant case,[6] and the case was settled without establishment of an arbitrated rate.[7] As discussed below, other state commissions have explicitly rejected cost interpretations (similar to the AT&T calculation) that do not comply with the Commission's long run standard for determining reciprocal compensation costs.

More specifically, Dr. Currie's assertion "that the largest portion of the total cost of the CopperCom switch was completely fixed (i.e., not sensitive to lines or traffic)" is not relevant to the determination of cost for reciprocal compensation. The TELRIC plus standard is a long run view of costs which means the analysis of incremental cost includes both fixed costs and variable costs related to the relevant product or element.[8] That is, the long run is the period of time such that all costs, including those costs that are fixed in the short run, can be treated as variable costs. In a recent arbitration case before the South Dakota Public Utilities Commission ("SDPUC"), the SDPUC Staff highlighted the differences between a short term and long term view, and concluded that Alltel's suggested rate of $.001/minute of use, or any rate close to zero was a very short term view and not consistent with the TELRIC standard.[9] The SDPUC Staff also noted that the short term marginal cost theory proposed by Alltel places the overwhelming burden of present and future costs on the incumbent LEC with a significant "free rider" effect available to the CMRS provider (in this case, Alltel). Also, in an arbitration case before the

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[4] *Id.*, at pg 4.

[5] *See* 47 C.F.R § 51.505 and 51.511.

[6] *See* AT&T letter from Henry Hulquist, AT&T to Marlene Dortch, Secretary, Federal Communications Commission, electronically submitted on October 13, 2008, at FN 18. The fact that AT&T shifts its focus from the rural LEC's case to a case involving AT&T in an attempt to advocate a low reciprocal compensation rate, demonstrates AT&T's lack of knowledge of the cost structure of rural LECs.

[7] *Id.* at FN 15.

[8] Comparing Alternative Approaches to Calculating Long Run Incremental Cost, Joshua S. Gans and Stephen P. King, June 1, 2004.

[9] *See* Public Utilities Commission of the State of South Dakota, Dockets Nos. TC 07-112, TC 07-113,TC 07-114, TC 07-115, TC -116 Staff Briefing Issue #1, October 10, 2008. Each Docket involved arbitration pursuant to the Telecommunications Act of 1996 between a rural local exchange carrier and Alltel, Inc.

Nebraska Public Service Commission ("NPSC"), the NPSC rejected the CMRS provider's argument that switching costs are incurred as a function solely of lines.[10] Further, the NSPC found that the assertion that switching cost is non-traffic sensitive is inconsistent with pricing of reciprocal compensation rates based on forward-looking economic costs.[11] The foregoing cost determinations by the NPSC were subsequently affirmed by the Eighth Circuit Court of Appeals in *WWC License, L.L.C. v. Boyle,* 459 F.3d 880, 894-6 (8th Cir. 2006).

In implementing the directive of Congress pursuant to 47 U.S.C. § 252(d)(2), the Commission adopted 47 C.F.R. § 51.505 and 47 C.F.R. § 51.511. In developing its Rules, the Commission concluded that prices for interconnection and unbundled elements should be set at forward-looking long-run incremental costs and established such standard as Total Element Long Run Incremental Cost ("TELRIC") which included a reasonable allocation of forward-looking joint and common costs. The Commission observed that economists generally agree that prices based on forward-looking long-run incremental costs give appropriate signals to producers and consumers and ensure efficient entry and utilization of telecommunications infrastructure.[12]

The application of the TELRIC plus long-run cost standard currently in Commission rules does not produce the extremely low rates for rural local exchange carriers that have been referenced by AT&T and Dr. Currie in the Michigan case. If the Commission is considering a vastly different approach from the current TELRIC plus standard, the Commission must assure that all voices and parties are heard by opening a Notice of Proposed Rulemaking on this matter. Without proper compliance with the Administrative Procedures Act and the Regulatory Flexibility Act, interested parties, including rural local exchange carriers, will be denied an opportunity to evaluate the proposal and place comments regarding the impact on rural consumers in the record regarding any changes in costing methodologies utilized for the purpose of reciprocal compensation.

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[10] *See* Nebraska Public Service Commission, In the Matter of the Petition of Great Plains Communications, Inc. for Arbitration to resolve issues related to an interconnection agreement with WWC License LLC September 23, 2003 Applications No. C-2872, at ¶ 39.

[11] *Id.* at ¶ 40.

[12] *See* First Report and Order at ¶ 630.

Thank you for considering the foregoing.

Sincerely,

Paul M. Schudel

Paul M. Schudel,
Legal counsel for and on
behalf of the Companies

cc: Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Deborah Taylor Tate
Dana Shaffer
Amy Bender
Scott Deutchman
Scott Bergmann
Nicholas Alexander
Greg Orlando
Don Stockdale
Al Lewis
Bill Sharkey
Jay Atkinson